



Rule Fact Sheet

July 30, 2001

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING THE INDIANA SCORING MODEL AND ASSESSMENT OF HAZARDOUS SUBSTANCE RESPONSE SITES #00-173(SWMB)

Overview

SEA 360-1997 required rules be adopted by the Solid Waste Management Board to amend 329 IAC 7 concerning the Indiana Scoring Model and assessment of hazardous substance response sites and determine a maximum score to allow sites that either have been the subject of a successful implementation of a remedy or score at or below the maximum score to be removed from the priority ranking if appropriate.

A procedure for deleting a listed site from the priority ranking and a maximum score was established by a rule LSA #98-110(F), effective November 27, 1998. A maximum score of 5 was established. The procedures allowed for either a party to petition for deletion or for the agency to initiate deletion of a site.

After consideration of all sites on the list, it was determined by the agency that this maximum score is inadequate to appropriately delete all the sites that have been the subject of a successful remediation. There are sites that pose no significant risk to human health or the environment but still accrue a score greater than 5.

The department has examined the maximum score for a site to be removed from the priority ranking. It was determined that a score of ten (10) or less could be assigned to a facility and still allow that site to be eligible for an agency initiated or petition deletion. In addition, the department listed other approvals (designations) that could be obtained after a successful remediation that can help determine appropriateness for that site to be deleted from the list.

Citations Affected

329 IAC 7

Affected Persons

Facilities currently listed on the Commissioner's Bulletin published in the Indiana Register each January. These facilities are considered to be on the list for State clean-up sites.

Reason(s) for the Rule

After implementation of the amendments to 329 IAC 7 to allow deletions, it was apparent to the department that a score of five (5) or less did not allow for many low priority sites that had undergone successful remediation and were of no environmental concern to be taken off the list. A higher score and alternatives to a score needed to be addressed in the amendment to the rule.

Economic Impact of the Rule

This rule will have an insignificant fiscal impact to the regulated community and to state and local government; however, it may have a significantly positive fiscal impact to the economic development of local communities.

Benefits of the Rule

This rulemaking will provide additional mechanisms for facilities to be taken off the Commissioner's bulletin when clean-up of the site has reached a protective level.

Description of the Rulemaking Project

The department has examined the maximum score for a site to be removed from the priority ranking. Any facility with a score of ten (10) or less may be considered for an agency initiated or petition deletion. In addition, the department has added several types of approvals (designations) that may be obtained by a remediated site to help determine the appropriateness for that site to be deleted from the list.

Scheduled Hearings

First Public Hearing: April 17, 2001, 1:30 p.m., Indiana Government Center South, Conference Center Room A. Second Public Hearing: August 21, 2001, 1:30 p.m., Indiana Government Center South, Conference Center Room A.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

There are no federal requirements regarding this program.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published that contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule must be approved by the Attorney General and the Governor. When approved, the rule becomes effective 30 days after filing with the Secretary of State.